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The Mexican oil situation in a nutshell

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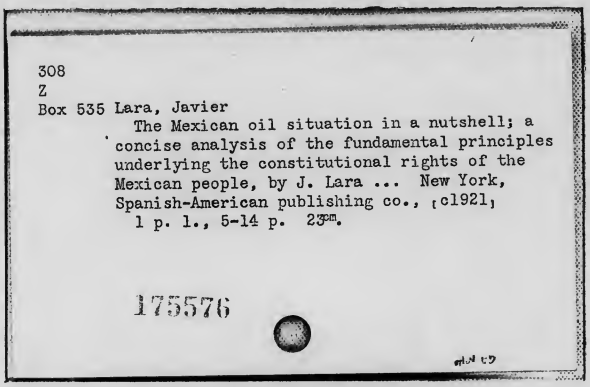

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The Mexican Oil Situation In a Nutshell

BY J. LARA

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Box 535

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JULY 1921

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Javier Lara

THE MEXICAN OIL SITUATION IN A NUTSHELL

A concise analysis of the fundamental principles underlying the constitutional rights of the Mexican people.

By
J. Lara

Author of

"En la Metropoli del Dollar
"La Guerra Mundial y La Situacion Mexicana."
T. Roosevelt (*translation*)
"The Underpaid White Collar Class"
"The Merits of Capable Translators"
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Note.

In view of the unrelenting severity with which Secretary of State Hughes has been conducting the controversy between the Mexican Government and the American oil producers, and the apparent inability to persuade this distinguished American jurist to acknowledge Mexico's just attitude toward certain American speculators and exploiters of oil lands in Mexico, this brief essay has been prepared in an endeavor to give the American people an opportunity of acquainting themselves, in a concise manner, with the fundamental principles underlying the traditional and constitutional rights of the Mexican people in the much discussed oil dispute.

The writer believes that the friendship of Mexico and the United States should be made of the stuff that can stand storms of disagreement. However, should the President of the United States or any of the members of his official family insist on handling Mexico with the "Big Stick," such policy will cast a damper on this much desired amity, and above all, will be deeply resented by the Latin-American republics.

Few persons know, as does the writer, the contempt with which the "Big Stick" policy is held by the average people in South America. It was his privilege to translate into Spanish the first book on the World War by the late Col. Roosevelt. The comments made on this book in the Central and South-American papers were, for the most part, directed against the "Big Stick" policy which the late American President so warmly advocated.

Viewing as they do this policy with suspicion in the Latin-American countries, would it not be advisable for the Republican Administration to be on particularly friendly terms with Mexico, rather than to antagonize her people as well as all the Latin-American republics, and above all, to lose their trade and sympathy?

J. L.

FEB 14 1938

FRANK TANNENBAUM

The Mexican Oil Situation in a Nutshell

IT IS IMPOSSIBLE in a brief statement to note the innumerable phases of the much-discussed dispute between the Mexican Government and the American oil producers. However, as a close student of this controversy, I feel it incumbent upon me, as a Mexican citizen, to write a few lines in an endeavor to sweep out of the minds of certain people in the United States their misconceptions concerning the real Mexican oil issue. These misconceptions, in many cases, result from wilfull distortions, and others are due solely to ignorance of solid facts.

The vituperations, slanders and falsehoods directed against the Mexican people in certain American yellow publications, are a matter of record. The best proof of this statement is a brief quotation from Arthur Brisbane's famous column "Today" on the 10th of June, 1921:

> "It must be an interesting constitution that forbids the Mexicans to refrain from stealing the property of American citizens."

It is to be regretted that some American writers have the assurance to make such broad statements about the people of a nation or rather of an entire race, whose sympathy

and trade the American people are at this time especially interested in conquering.

To properly understand the long-drawn-out controversy between the American oil producers and the Mexican Government, it is necessary to go back into history, especially into the legal aspect of it.

The new constitution of 1917 does not have a single confiscatory article. The much hackneyed Article 27 (which has now become as famous as Article X of the covenant of the League of Nations) is simply a reaffirmation of the nation's dominion over the minerals and hydrocarbons safeguarded by the Constitution of 1857 promulgated during the regime of Mexico's Lincoln—Benito Juarez.

It is a matter of common knowledge (both among Mexicans and Americans who have lived in Mexico) that Porfirio Diaz tore up the Constitution of 1857 as many times as he wanted. Taking advantage of this self-authorized and well-nigh divine privilege, Porfirio Diaz gave the oil interest the fiat code of 1884.

In the days of Porfirio Diaz there was perhaps no more learned constitutional lawyer in Mexico than Manuel Calero, later appointed Mexican Ambassador in the United States by President Madero. In discussing this special Diaz dispensation, Mr. Calero said:

> "According to our juridical traditions in mining matters, all the mineral deposits and inorganic substances of the country's subsoil first belonged to the Spanish Kingdom . . . The system was perpetuated during our independent period, and the mining code of 1884 is the first Mexican legislation that brought about really important *innovations which were expressly forbidden* in Article 72 of the Constitution (1857) of the Republic."

There is an important point which Mr. Calero, owing perhaps to his official position, did not mention at the time. The illegal innovations referred to by Mr. Calero, were expressly made to help the gang of plunderers and exploiters of the land (wealthy Mexicans and foreign capitalists, all close friends of Diaz), who succeeded in getting Diaz to jam through an amendment to section 10 of the Mining Code, in the latter part of the year 1883. This amendment was never tested in the Supreme Court,—which would have been useless inasmuch as Diaz himself controlled the Supreme Court. Naturally the *cientificos* as well as the foreign capitalists bought as much oil property as possible, avoiding the payment of the ground-rent under the special dispensation of Diaz.

The expression 'confiscatory policy' has really been invented in the United States. How is it that they do not use the same term when speaking of mining property, such as gold, silver and copper? The American mining companies have been operating in Mexico for years subject to the nation's subsoil laws, and has the property of these American companies ever been confiscated? Furthermore, since the Constitution of

1917 was put in force, thousands of oil tanks have been leaving the Port of Tampico, which simply means that the oil wells have continued to be exploited as heretofore. Then, why do some American journalists boldly say that 'Mexicans are stealing the property of American citizens?'

Of course, it all depends upon one's point of view. The following extract from an article appearing in "The Nation" of New York, June 22nd, 1921, entitled "Bullying Mexico," throws an interesting sidelight on the subject:

> "All taxation is confiscation in part. The English land taxes devised by Lloyd George in his early political career and our own income taxes in the upper schedules are highly and intentionally confiscatory. Confiscation is a bogy brought forth by vested and property interests whenever they see themselves likely to be shorn."

Reverting to the legal aspect of the issue, any lawyer or student of laws will tell you that all drastic laws are more or less retroactive. Two cases in point: slavery and prohibition. If the owners of slaves and liquor in the United States were compelled to forfeit their rights to a legally acquired property by virtue of drastic legislation, why protest so loudly against a Mexican alien land law which permits foreigners to continue exploiting their property?

Furthermore, it ought to be remembered by the advocates of "legal ethics" that it is an every-day occurrence to consider null and void a will executed by a full-fledged and conscientious testator, without the slightest idea that his act

may be considered nil after his death. Another example: It is a common thing in the United States courts to cancel a marriage legally contracted by two persons, on the ground that there are certain flaws in the "marriage contract." Why, then, deny to the Mexican Government the right to consider null and void a law enacted by a previous Administration which flaunted the Constitution every time it saw fit?

Now again, should some people—especially the oil producers—insist on calling retroactive or confiscatory Article 27 of the new Mexican Constitution, they are respectfully reminded to keep vividly in their mind this added instance: Suppose the Single Tax party or Socialist party of the United States ever got into power, and by virtue of the planks in their party, laws were changed, whereby some people would have to pay less taxes on their property and others more, would the proprietors in the latter group have any right to refuse the payment of higher taxes on the ground that a lower assessment of their property was levied under laws enacted by another Administration? Would the thousands of foreigners affected by such new legislation have any right to complain to the governments of their respective countries? Then, what right have the oil producers to protest in the case of Mexico, simply because a new Administration is subjecting their unconstitutionally acquired land to different laws,—land which they bought at ridiculously low prices, taking advantage of the period when

the Mexican Constitution was at the mercy of one man, Porfirio Diaz.

From the above discussion, it will be readily seen that the celebrated oil dispute, resolves itself into the following: The point at issue is not so much of ownership or confiscation as that of subsoil taxation, which is exactly what the present American oil producers want to avoid and which would mean putting a premium on their land over that subsequently acquired by other investors.

Should there remain some people inclined to believe that Mexico's subsoil ownership is illegal and confined to that country alone, their attention is invited to a quotation taken from a previous paragraph appearing in the same article of "The Nation":

> "The ownership of property in Mexico, as in various other countries and some of our own States, does not carry with it the right to minerals in the earth," etc., etc.

The preceding excerpt clearly shows that the subsoil legislation is not a new thing, either in Mexico or in the United States. Why, then, raise a clamor against an old-established law which the new Mexican Government will not tolerate to be ignored or set aside any longer?

The whole situation is as clear as the noon-day sun: Let the oil producers recognize the country's rights to the subsoil and pay the 'ground rent' to which the nation has

always been entitled by virtue of the various constitutions promulgated since Mexico's independence.

Taking a step back does not mean submitting to Mexico's unjust terms, but recognizing the constitutional rights and juridical traditions of a nation, whose people have for centuries been exploited by the landed aristocracy of the country as well as by foreign investors, the very ones who believe in buying large tracts of land at low prices and demanding as much protection as in the vicinity of the White House.

In their effort to belittle and discredit Mexico and other Latin-American republics, it has been the practice of certain foreign investors to class the Mexicans and other Latin-Americans as a semi-savage people. On the other hand, when these investors and their legal jackals want to take any of the southern republics to account for their misdeeds(?), they do not hesitate to compare them with England, France, Switzerland and other highly civilized European nations. The logic of these gentlemen's reasoning falls ignominiously upon the ground!

"Intervention" is the eternal threat of the jingoes, but this will never come as long as the President of the United States is willing to prevent the American Army and Navy from being used as a collection agency for some commercial houses trying to get money from the 'hand-me-down'

Governments in Latin America. Such was the spirit of an amendment to the Navy Bill for the fiscal year 1922 recently offered by Senator Robert LaFollette. God grant that other American legislators, statesmen and international jurists may hold the same liberal views as Senator LaFollette!

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